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2 UNITED STATES DISTRICT COURT  
3 CENTRAL DISTRICT OF CALIFORNIA  
4 SOUTHERN DIVISION

CLERK, U.S. DISTRICT COURT	FILED
OCT - 2 2007	
SDN 500	500
CENTRAL DISTRICT OF CALIFORNIA	
DEPUTY	

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6 THE HONORABLE JAMES V. SELNA, JUDGE PRESIDING

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8 UNITED STATES OF AMERICA,  
9 Plaintiff,  
10 vs.

SACR-05-36-JVS

11 KENNETH KETNER,  
12 Defendant.

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

Santa Ana, California

August 1, 2006

SHARON A. SEFFENS, RPR  
United States Courthouse  
411 West 4th Street, Suite 1-1053  
Santa Ana, CA 92701  
(714) 543-0870

DOCKETED ON CM	OCT - 3 2007
BY	040

SHARON SEFFENS, U.S. COURT REPORTER

(99)

1 APPEARANCES OF COUNSEL:

2 For the Plaintiff:

3 DEBRA W. YANG  
4 United States Attorney  
5 WAYNE R. GROSS  
6 Assistant United States Attorney  
7 Chief, Santa Ana Division  
8 BRENT G. TABACCHI  
9 Assistant United States Attorney  
10 U.S. District Courthouse  
11 411 West Fourth Street, 8th Floor  
12 Santa Ana, CA 92701

13 For the Defendant:

14 TERRY W. BIRD  
15 BIRD, MARELLA, BOXER, WOLPERT  
16 NESSIM, DROOKS & LINCENBERG, P.C.  
17 1875 Century Park East, 23rd Floor  
18 Los Angeles, CA 90067-2561

1 SANTA ANA, CALIFORNIA; AUGUST 1, 2006; P.M. SESSION

2 THE CLERK: Item No. 2, SACR-05-36-JVS,  
3 United States of America versus Kenneth Ketner.

4 Counsel, please state your appearances.

5 MR. TABACCHI: Good afternoon, Your Honor. Brent  
6 Tabacchi on behalf of the United States.

7 MR. BIRD: Good afternoon, Your Honor. Terry Bird  
8 representing the defendant who is present in the courtroom.

9 THE COURT: Good afternoon.

10 I understand there will be a change of plea today.

11 MR. BIRD: That's correct.

12 THE COURT: I note that a plea agreement was filed  
13 on behalf of July 19, 2006. I will direct that it be made a  
14 part of these proceedings.

15 Mr. Ketner, would you and Mr. Bird go to the  
16 podium, please.

17 Good afternoon, Mr. Ketner.

18 THE DEFENDANT: Good afternoon, Your Honor.

19 THE COURT: Sir, before I accept your plea of  
20 guilty, I need to satisfy myself that you understand the  
21 nature of the charges against you and the possible  
22 punishment. I also need to satisfy myself that you  
23 understand the constitutional and statutory rights that you  
24 will be giving up by pleading guilty. For that reason, I am  
25 going to ask you a number of questions. If any of my

1 questions are unclear, please just let me know, and I will  
2 be happy to clarify to question.

3 You have right to consultant with Mr. Bird at any  
4 point during these proceedings, so if you would like to do  
5 that, please just let me know. Okay?

6 THE DEFENDANT: I understand.

7 THE COURT: At this time, the clerk is going to  
8 put you under oath.

9 (Defendant sworn.)

10 THE COURT: Sir, do you understand that you are  
11 now under oath, and that if you answer any of my questions  
12 falsely, you could be prosecuted later for perjury or the  
13 making of a false statement?

14 THE DEFENDANT: I do.

15 THE COURT: State your true and correct name.

16 THE DEFENDANT: Kenneth Christopher Ketner.

17 THE COURT: How old are you, sir?

18 THE DEFENDANT: 57.

19 THE COURT: Tell me about your educational  
20 background, please.

21 THE DEFENDANT: I attended elementary school, high  
22 school. I graduated from Alta Loma High School in 1966. I  
23 went to a community college. I went to Chaffe Community  
24 College located in Alta Loma, California. I then pursued a  
25 college degree at Cal Poly - Pomona. I did not graduate

1 from there.

2 THE COURT: Have you recently been treated for any  
3 mental illness?

4 THE DEFENDANT: I am in the process of -- for the  
5 first time in my life, I have retained a therapist, but I am  
6 not under any medication at this time nor have I in the past  
7 been treated for any mental illness.

8 THE COURT: A psychologist or for a psychiatrist?

9 THE DEFENDANT: A psychologist.

10 THE COURT: Do you feel that you are  
11 psychologically able to proceed today with this pleading?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you feel that you are under any  
14 emotional stress at this time?

15 THE DEFENDANT: No, Your Honor.

16 MR. BIRD: Other than the normal stress that --

17 THE DEFENDANT: Other than the normal stress.

18 THE COURT: Right. I appreciate that there is an  
19 inherent stress in a criminal prosecution.

20 THE DEFENDANT: Okay, that's what I am suffering  
21 if I am suffering anything at all.

22 THE COURT: Do you feel alert today?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you feel that you understand the  
25 environment where you are today and what is going on?

1                   THE DEFENDANT: Yes, I do.

2                   THE COURT: Have you recently been treated for  
3                   addiction to narcotics?

4                   THE DEFENDANT: No.

5                   THE COURT: Have you taken any medicine, drugs, or  
6                   alcohol within the past 72 hours?

7                   THE DEFENDANT: No.

8                   THE COURT: Do you suffer from any mental  
9                   condition that would prevent you from fully understanding  
10                  the charges against you or the consequences of any guilty  
11                  plea you may enter?

12                  THE DEFENDANT: No.

13                  THE COURT: Is there any reason at all why we  
14                  cannot go forward with your plea at this time?

15                  THE DEFENDANT: No.

16                  THE COURT: Mr. Bird, have you had an opportunity  
17                  to speak to your client immediately prior to this  
18                  proceeding?

19                  MR. BIRD: I have.

20                  THE COURT: Do you have any reason to believe that  
21                  the defendant is not competent to enter his plea of guilty  
22                  at this time?

23                  MR. BIRD: I do not.

24                  THE COURT: Is there any reason at all why we  
25                  cannot go forward?

1 MR. BIRD: I know of none.

2 THE COURT: Is it your opinion that your client is  
3 in the full possession of his faculties?

4 MR. BIRD: It is.

5 THE COURT: The Court having observed the  
6 defendant and having considered his responses and the  
7 responses of counsel finds that the defendant is in the full  
8 possession of his facilities.

9 Sir, you have a number of constitutional rights  
10 that you will be giving up by pleading guilty. I am going  
11 to tell you about those at this time.

12 You have the right to a speedy and public trial.  
13 You have the right to be tried by a jury. Alternatively,  
14 you have the right to waive a jury trial and to be tried by  
15 the Court. That means I would be the trier of fact. In  
16 either case, you have the right to persist in your plea of  
17 not guilty, and you have the right to make the government  
18 prove that you are in fact guilty beyond a reasonable doubt.

19 You have the right to be represented by an  
20 attorney throughout these proceedings, and if you cannot  
21 afford one, one will be appointed for you free of charge.  
22 You have the right to confront and cross-examine all  
23 witnesses called to testify against you.

24 You also have the right to present witnesses on  
25 your own behalf, and you have the right to have those

1 witnesses subpoenaed, that is, compelled by Court order to  
2 come here to testify for you.

3                   You have a privilege against self-incrimination,  
4                   that is, the right to remain silent. However, by entering a  
5                   plea of guilty, you are giving up that right because you are  
6                   in fact incriminating yourself. You have the right to  
7                   testify on your own behalf, but you cannot be compelled to  
8                   do so or to incriminate yourself in any way. If you do not  
9                   testify at trial, that fact cannot be used against you.

10 In the event of a conviction after trial, you have  
11 the right to appeal the sentence and the conviction.

12 | Have you discussed these rights with Mr. Bird?

13 | THE DEFENDANT: I have, Your Honor.

14 THE COURT: Would you like any additional time now  
15 to discuss these rights with him?

16 | THE DEFENDANT: No.

17 THE COURT: Do you understand that you have these  
18 rights, and that if you enter a plea of guilty and the plea  
19 is accepted by the Court, you will be giving up the right to  
20 a jury trial and all the other rights I have just described  
21 to you?

22 THE DEFENDANT: I understand that, Your Honor.

23 THE COURT: Do you give up these rights?

24 THE DEFENDANT: Yes.

25 THE COURT: Mr. Bird, are you satisfied that each

1 of these waivers is made knowingly and voluntarily?

2 MR. BIRD: I am.

3 THE COURT: Do you join and concur in each of the  
4 waivers?

5 MR. BIRD: I do.

6 THE COURT: Mr. Ketner, in Count 9 of the  
7 Indictment you are charged with violating United States Code  
8 Section -- Title 18, Section 1343, mail fraud. In Count 16,  
9 you are charged with violating Title 18 of the United States  
10 Code, Section 1957, money-laundering, each count being a  
11 felony.

12 Mr. Tabacchi, would you recite the elements of  
13 each charge, please.

14 MR. TABACCHI: Yes, and just for the record,  
15 Mr. Ketner will be pleading to a wire fraud charge as  
16 opposed to a mail fraud charge.

17 THE COURT: Okay.

18 MR. TABACCHI: In order for Mr. Ketner to be  
19 guilty of Count 9 which charges a violation of Title 18,  
20 United States Code, Section 1343, the following four facts  
21 must be true: (1) Mr. Ketner knowingly devised or  
22 knowingly participated in a scheme to defraud; (2) the  
23 statements made or facts omitted as part of the scheme were  
24 material; (3) Mr. Ketner acted with the intent to defraud;  
25 and (4) Mr. Ketner used, or caused someone to use, wire

1       communications in commerce to carry out or to attempt to  
2       carry out the scheme or plan.

3               In order for Mr. Ketner to be guilty of Count 16,  
4       which charges a violation of Title 18, United States Code,  
5       Section 1957, the following must be true: (1) Mr. Ketner  
6       knowingly engaged or attempted to engage in a monetary  
7       transaction; (2) Mr. Ketner knew the transaction involved  
8       criminally derived property; (3) the property had a value of  
9       greater than \$10,000; (4) that the property was in fact  
10      derived from wire fraud; and (5) the transaction occurred in  
11      the United States.

12               THE COURT: Thank you.

13               THE COURT: Sir, do you understand the nature of  
14      the charge?

15               THE DEFENDANT: Yes.

16               THE COURT: Have you discussed with Mr. Bird each  
17      charge and each of the elements of each charge?

18               THE DEFENDANT: Yes.

19               THE COURT: Do you have any questions about the  
20      charges against you?

21               THE DEFENDANT: No.

22               THE COURT: Have you been advised of the maximum  
23      penalties that can be imposed for the charges to which you  
24      are offering to plead guilty?

25               THE DEFENDANT: I have.

1                   THE COURT: Mr. Tabacchi, would you recite the  
2 maximums, please.

3                   MR. TABACCHI: Yes.

4                   The statutory maximum sentence that the Court can  
5 impose for a violation of Title 18, United States Code,  
6 Section 1343, that occurred prior to July 30, 2002, as is  
7 charged in this case is as follows: five years imprisonment;  
8 a three-year period of supervised release; a fine of  
9 \$250,000 or twice the gross gain or gross loss resulting  
10 from the offense, whichever is greatest; and a mandatory  
11 special assessment of \$100.

12                  The statutory maximum sentence that the Court can  
13 impose for a violation of Title 18, United States Code,  
14 Section 1957, is as follows: ten years imprisonment; a  
15 three-year period of supervised release; a fine of \$250,000  
16 or twice the gross gain or gross loss resulting from the  
17 offense, whichever is greatest; and a mandatory special  
18 assessment of 100.

19                  Therefore, the total maximum sentence for all  
20 offenses to which Mr. Ketner is pleading guilty is as  
21 follows: 15 years imprisonment; a three-year period of  
22 supervised release; a fine of \$500,000 or twice the gross  
23 gain or gross loss resulting from the offense, whichever is  
24 greatest; and a mandatory special assessment of \$200.

25                  THE COURT: And I understand there will be

1 restitution required in this case.

2 MR. TABACCHI: That's correct, Your Honor. The  
3 parties have no specific agreement as to the amount of  
4 restitution. It's the estimate of the United States that  
5 restitution will be in excess of \$9 million.

6 THE COURT: Sir, do you understand that as part of  
7 any criminal judgment in this case you will be ordered to make  
8 restitution for any losses you caused?

9 THE DEFENDANT: Yes, I understand that.

10 THE COURT: Although the government has a current  
11 estimate in excess of \$9 million, the order of restitution  
12 will cover the actual amount as the Court determines it  
13 regardless of what that amount is.

14 THE DEFENDANT: I understand.

15 THE COURT: Sir, do you have any questions about  
16 the punishments that can be imposed for the charges to which  
17 you are offering to plead guilty?

18 THE DEFENDANT: No.

19 THE COURT: Do you understand that there is no  
20 parole and that if you are sentenced to prison you will not  
21 be released on parole?

22 THE DEFENDANT: I understand.

23 THE COURT: You may be subject to supervised  
24 release for a number of years after your release from  
25 prison.

1                   Do you understand that if you violate any of the  
2 terms and conditions of your supervised release you could be  
3 given more time in prison?

4                   THE DEFENDANT: I understand.

5                   THE COURT: If you are currently on probation,  
6 parole, or supervised release for another offense, do you  
7 understand that your plea in this case could result in a  
8 violation of that probation, parole, or supervised release  
9 and result in your serving more time than you otherwise  
10 would?

11                  THE DEFENDANT: I understand, but I am not on any  
12 of those things.

13                  THE COURT: Well, I don't have those facts. I  
14 just need to advise you of the consequences of the plea in  
15 the event that those facts are applicable to you.

16                  Have you discussed the possible punishment, the  
17 facts, and the defenses with Mr. Bird?

18                  THE DEFENDANT: Yes.

19                  THE COURT: Among the factors that the Court will  
20 consider in sentencing you are the Sentencing Reform Act of  
21 1984 and the United States Sentencing Commission Guidelines.

22                  Have you discussed the Guidelines with Mr. Bird?

23                  THE COURT: Has he explained to you the various  
24 elements and factors that will be used to analyze your case  
25 under the Guidelines?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that the Court will  
3 not be able to determine the guideline sentence for your  
4 case until a presentence report has been prepared by the  
5 Probation Office, and you and the government have had an  
6 opportunity to read it and to make any objections?

7 THE DEFENDANT: I understand that, Your Honor.

8 THE COURT: The presentence report will contain a  
9 recommended guideline range. There will be a high and a low  
10 to the range. That range is entirely advisory, which means  
11 I could sentence you from no time in prison to the maximum  
12 under the two statutes of 15 years. Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: The Court will independently consider  
15 both the presentence report and any objections of the  
16 parties and will analyze your case under the Guidelines  
17 taking into account various factors such as the nature of  
18 the charge against you, what your prior record is, if any,  
19 whether you have accepted responsibility for the offense and  
20 whether you have obstructed justice.

21 Do you understand that this is the general process  
22 the Court will go through to analyze your case under the  
23 Guidelines?

24 THE DEFENDANT: I understand that.

25 THE COURT: Do you also understand that the

1 guideline range is only advisory and that the Court may  
2 depart from the Guideline and impose a sentence that is more  
3 or less severe than called for by the Guidelines?

4 THE DEFENDANT: I understand.

5 THE COURT: In the end, it's the Court's duty to  
6 impose a sentence that is reasonable in light of the  
7 specific facts of this case, the Guidelines, and the  
8 Sentencing Reform Act of 1984. Do you understand this?

9 THE DEFENDANT: I do.

10 THE COURT: Do you understand that for all these  
11 reasons neither Mr. Bird nor I nor anyone can tell you today  
12 with certainty what Guidelines apply or what your sentence  
13 will be?

14 THE DEFENDANT: I understand that.

15 THE COURT: Do you understand that if the sentence  
16 which I ultimately impose is more severe than you anticipate  
17 you will not be allowed to withdraw your plea?

18 THE DEFENDANT: I understand that.

19 THE COURT: As I indicated, a plea agreement has  
20 been filed in this case.

21 Have you read the plea agreement?

22 THE DEFENDANT: I have.

23 THE COURT: Have you discussed the agreement and  
24 all of its terms with your counsel?

25 THE DEFENDANT: I have.

1                   THE COURT: Did you sign the plea agreement?

2                   THE DEFENDANT: Yes.

3                   THE COURT: Do you understand the plea agreement  
4 and all of its terms?

5                   THE DEFENDANT: Yes.

6                   THE COURT: Would you like any additional time now  
7 to discuss the plea agreement with Mr. Bird?

8                   THE DEFENDANT: No.

9                   THE COURT: Do you understand that the Court is  
10 not a party to the plea agreement and is not bound by any of  
11 its terms?

12                  THE DEFENDANT: I understand that.

13                  THE COURT: As part of the plea agreement, the  
14 government has agreed to make certain recommendations at the  
15 time of sentencing.

16                  Do you understand that the Court is not a party to  
17 the agreement and is not bound to follow any recommendation  
18 which the government may make?

19                  THE DEFENDANT: I understand that, Your Honor.

20                  THE COURT: Again, this means that if I impose a  
21 sentence that is more severe than you anticipate you will  
22 not be allowed to withdraw your plea. Do you understand  
23 that?

24                  THE DEFENDANT: I understand.

25                  THE COURT: The plea agreement contains a limited

1 waiver of your right to appeal.

2 Mr. Tabacchi, would you recite those provisions,  
3 please.

4 MR. TABACCHI: Yes.

5 Before we move on, just to go back briefly to the  
6 sentencing provisions, the government just wants to make  
7 clear that the government in this case will be recommending  
8 a sentence between 51 to 63 months under the Guidelines.  
9 The United States has received information -- whether that  
10 information is reliable or accurate or not -- that  
11 Mr. Ketner has relayed to other individuals that he  
12 anticipates the government will be recommending a two-year  
13 sentence here. I just want it to be perfectly clear that  
14 that is not the case. That is not the bargain that the  
15 government has struck in this case.

16 MR. BIRD: Your Honor, that's the first I have  
17 heard of that. I have no information about that. I happen  
18 to think that information is not only inaccurate, but it  
19 must have been purposely passed onto the government for some  
20 purpose of whoever it was who passed that on. You can  
21 certainly question the defendant about that. That's the  
22 first I have of it, and that's not our understanding in any  
23 form or fashion.

24 MR. TABACCHI: I don't bring this up in any way to  
25 impune to Mr. Bird or Mr. Ketner that they have done this.

1 I just want to be clear. I have been involved in cases  
2 where on collateral review issues are brought up. I just  
3 want to be certain at this point in time that Mr. Ketner  
4 understands what the government's obligations are in this  
5 case.

6 THE COURT: Well, I will be querying Mr. Ketner  
7 shortly about whether there are any side agreements or other  
8 understandings.

9 MR. TABACCHI: I appreciate that.

10 THE COURT: I think it's appropriate for the  
11 government to make sure that there are no misapprehensions  
12 on the part of Mr. Ketner or his counsel without impuning  
13 either.

14 MR. BIRD: I can assure you -- of course, we fully  
15 expect that you are going to be continuing with your  
16 questioning of the defendant and solicitation of all the  
17 information you need in order to consider whether to accept  
18 the plea, but there has been no such expectation that I am  
19 aware of, and I don't believe that the defendant has any  
20 such expectation in this instance because we have discussed  
21 this at great length.

22 He understands that everything you have said to  
23 him so far and everything you are about to say to him is in  
24 fact the case as far as the Court's consideration of what  
25 the sentence ought to be. If Mr. Tabacchi wants to make his

1 record, that's fine, but I just want to make mine.

2 THE COURT: Let's proceed to the waiver of appeal.

3 MR. TABACCHI: Through the plea agreement, Mr.  
4 Ketner is giving up the right to appeal the Court's  
5 determination of the applicable Sentencing Guidelines range,  
6 including the method by which the Court calculates that  
7 range with the following exceptions: Mr. Ketner can appeal  
8 (a) any upward departure in offense level or criminal  
9 history category; (b) any determination that the total  
10 offense level is above 24; and (c) the Court's determination  
11 of defendant's criminal history category.

12 Mr. Ketner retains the ability to appeal his  
13 sentence on all other grounds, including in particular the  
14 reasonableness of the sentence imposed by the Court, with  
15 the exception that Mr. Ketner gives up the right to appeal  
16 the following conditions of probation and/or supervised  
17 release that may be imposed by the Court: standard  
18 conditions set forth in District Court General Orders 318  
19 and 01-05; the drug conditions mandated by 18 USC Sections  
20 3563(a)(5) and 3583(d); and the alcohol and drug use  
21 conditions authorized by 18 USC Section 3563(b)(7).

22 Mr. Ketner also gives up any right to bring a  
23 post-conviction collateral attack on the conviction or  
24 sentence, including any order of restitution, except a  
25 post-conviction collateral attack based on a claim of

1 ineffective assistance of counsel, a claim of newly  
2 discovered evidence, or a retroactive change in the  
3 applicable Sentencing Guidelines, sentencing statutes, or  
4 statutes of conviction.

5 THE COURT: Thank you.

6 Mr. Ketner, do you understand that by entering  
7 into the plea agreement and agreeing to plead guilty you  
8 have agreed to give up your right to appeal any sentence you  
9 receive in accordance with the terms of the plea agreement?

10 THE DEFENDANT: I do.

11 THE COURT: Did you discuss waiving your right to  
12 appeal with Mr. Bird?

13 THE DEFENDANT: Yes.

14 THE COURT: Based on that conversation and having  
15 considered the matter, do you give up your right to appeal  
16 in accordance with the terms of the plea agreement?

17 THE DEFENDANT: I do.

18 THE COURT: Are you a citizen of the  
19 United States?

20 THE DEFENDANT: Yes.

21 THE COURT: Where were you born?

22 THE DEFENDANT: Los Angeles, California.

23 THE COURT: Do you understand that a plea of  
24 guilty may deprive you of valuable civil rights such as the  
25 right to vote, the right to hold public office, the right to

1 serve on a jury, and the right to possess any kind of a  
2 firearm?

3 THE DEFENDANT: I do.

4 THE COURT: Do you understand that any federal  
5 sentence imposed cannot run concurrently with any state  
6 sentence that has not been imposed at the time of your  
7 sentencing on the federal crime?

8 THE DEFENDANT: I do.

9 THE COURT: Have any promises been made to you in  
10 exchange for your plea of guilty other than those set forth  
11 in the plea agreement?

12 THE DEFENDANT: No.

13 THE COURT: Has anyone made any threats or used  
14 any force against you or your family or anyone near and dear  
15 to you to get you to plead guilty?

16 THE DEFENDANT: No.

17 THE COURT: Are you pleading guilty because you  
18 are in fact guilty?

19 THE DEFENDANT: I am.

20 THE COURT: Other than what is contained in the  
21 written plea agreement and other than a general discussion  
22 of the guideline sentencing process with your counsel, has  
23 anyone made you any promises of leniency, a particular  
24 sentence, probation, or any other inducement of any kind to  
25 get you to plead guilty?

1 THE DEFENDANT: No.

2 THE COURT: Have you been told by anyone what  
3 specific sentence you will receive in the event that the  
4 Court accepts your plea of guilty?

5 THE DEFENDANT: No.

6 THE COURT: Have you told Mr. Bird all the facts  
7 and circumstances surrounding any statement, confession, or  
8 other evidence that was obtained from you by anyone?

9 THE DEFENDANT: I have.

10 THE COURT: Mr. Tabacchi, what would the  
11 government prove if the government proceeded to trial?

12 MR. TABACCHI: If proceeded to trial, the  
13 government would prove the following facts:

14 At all times relevant to this plea agreement,  
15 Kenneth Ketner was one of the operators of Mortgage Capital  
16 Resources hereinafter referred to as MCR, a mortgage  
17 brokerage firm located in Orange County, California, and  
18 elsewhere. Drawing on lines of credit from commercial  
19 lenders -- most notably, Household Commercial Financial  
20 Services hereinafter referred to as Household -- MCR  
21 purported to fund home loans for borrowers throughout the  
22 country.

23 As part of its business, MCR requested on hundreds  
24 of occasions that Household wire money from the line of  
25 credit to fund specific mortgages. In these requests, MCR

1 identified the specific borrower to whom these funds would  
2 be disbursed. Relying upon these representations, Household  
3 agreed to fund the specified loans and wired money for that  
4 purpose to a closing agent, Attorney Allen Johnson.  
5 Household expected that MCR and Johnson would not use this  
6 money for any purpose other than to fund the loans of the  
7 identified borrowers.

8                   Rather than complying with their promises and  
9 representations to Household, Ketner, with the knowing  
10 assistance of other MCR officers and employees, diverted for  
11 improper and fraudulent uses the money earmarked for the  
12 borrowers. In this way and to facilitate this scheme,  
13 Ketner improperly directed Johnson to transfer Household's  
14 money from his attorney/client trust account to an  
15 MCR-controlled account at La Salle Bank. Acting on such  
16 directions, Johnson diverted millions of dollars belonging  
17 to Household to MCR's accounts. With the knowing assistance  
18 of other MCR officers and employees, Ketner then used this  
19 money to operate MCR and to pay his own personal expenses,  
20 such as payments on his house, boat, and credit cards.

21                   Having improperly diverted this money to his own  
22 benefit and for his own purposes, Ketner and MCR could not  
23 fund many of the mortgages for which Household had wired  
24 money. To conceal this fact, Ketner instructed his  
25 employees to fund their way out of this problem. More